

February 1, 2009

Dear CJA Panel Member:

Please be advised that acceptance of an appointment and representation of a defendant pursuant to the Criminal Justice Act (18 U.S.C. § 3006A) is considered by the Court to be an obligation on appointed counsel's part to represent a defendant at every stage of the proceedings, from initial appearance before the Magistrate or District Judge through appeal, including appropriate ancillary matters. It is also appointed counsel's responsibility to comply with applicable appointment procedures and administrative guidelines which are summarized below for informational purposes.

The following information is provided to assist appointed counsel in completing claims submitted for payment, including claims made for investigative, expert or other types of services. Prior to making an inquiry regarding a CJA claim, it is suggested that the district court website at <http://www.vtd.uscourts.gov> be first reviewed for information. Additionally, the Defender Services Division in Washington, DC maintains a website (<http://www.fd.org>) which contains Volume VII of *The Guide to Judiciary Policies & Procedures*, **Appointment of Counsel in Criminal Cases**, as well as other information which may be helpful to appointed counsel. Lastly, District Court Criminal Justice Act Administrator Julie M. McKenzie may be contacted at (802) 951-6395 Ext. 112 or by email at Julie.McKenzie@vtd.uscourts.gov for administrative or procedural guidance.

1. **LIMITATIONS** (Attorney Services - CJA Form 20)

A. **Hourly Rates.** On or after May 1, 2002, the rate for attorney services is set equally at \$90.00 per hour for both in-court and out-of-court time. For services performed on or after January 1, 2006, the hourly compensation rate increased to \$92.00. For services performed on and after May 20, 2007, the hourly rate will increase to \$94.00 per hour. For services performed on or after January 1, 2008, the hourly rate will increase to \$100. All time billed must be reported in 1/10 hour increments, must be itemized and must include, in addition to the completed CJA 20 Voucher, a separate listing of billable time.

For all appointments occurring on or after July 15, 2008 pursuant to the 2nd Circuit's voucher standardization initiative, all billable time and other expenses claimed *must* be submitted on uniform, standardized worksheets (along with each CJA 20 voucher submitted for payment). Worksheets include a worksheet for in-court time, out-of-court time and also for other expenses claimed. All worksheets are fillable and are available from the Court's website: <http://www.vtd.uscourts.gov> from the link *CJA Information*. See also Sections 1.C.(2) and 8. below for additional information. For appointments

made on or after July 15, 2008, counsel *may* include a copy of their in-house billing records when submitting payment claims, but time billing records are not required for appointments made on or after July 15, 2008, just the pertinent worksheet(s).

B. Maximum Compensation effective for cases completed on or after 10/13/08:

(1)	<u>Felonies:</u>	\$ 7,800
(2)	<u>Misdemeanors:</u>	\$ 2,200
(3)	<u>Representation in appellate court:</u>	\$ 5,600
(4)	<u>Non-capital habeas (i.e., 28:2241; 2254; or 2255):</u>	\$ 7,800
(5)	<u>Pre-trial diversion felony proceedings:</u>	\$ 7,800
(6)	<u>Pre-trial diversion misdemeanor proceedings:</u>	\$ 2,200
(7)	<u>Representation before U.S. Parole Commission:</u>	\$ 1,700
(8)	<u>Representation in appeal of U.S. Parole Commission:</u>	\$ 5,600
(9)	<u>Other (representation involving a material witness, a grand jury witness, a term of supervised release or probation violations):</u>	\$ 1,700

C. Excess Claims.

(1) Pre July 15, 2008 Appointments. Claims for services of court appointed counsel in excess of statutory maximums *must* be accompanied by a detailed memorandum, supporting and justifying that representation provided was *extended* requiring more time than an average case or that representation was *complex* requiring the expenditure of more skill or effort to handle unusual legal or factual issues. Claims for excess compensation undergo both district and appellate review. It is suggested that counsel review the *Guidelines for Preparing an Excess Compensation Affidavit* available at the Court's website prior to submitting a claim which exceeds threshold limits.

(2) Post July 15, 2008 Appointments. For appointments occurring on or after July 15, 2008, claims for excess compensation require mandatory use of a standardized form, CJA 26, *Supplemental Information Statement for Compensation Claim In Excess of the Statutory Case Compensation Maximum: District Court*. Excess compensation claims made at the circuit level require the use of form CJA 27. Additionally, after July 15, 2008, there is no formal need for counsel to submit a motion for excess compensation, supporting affidavit or memorandum as these two standardized forms provide a uniform, all-inclusive format for documenting excess compensation requests. These forms and instructions for properly completing them are available from the district court's website: <http://www.vtd.uscourts.gov> starting at the link CJA Information. *See also* Section 8 below.

2. REIMBURSABLE OUT-OF-POCKET EXPENSES

A. Travel Expenses. Travel by privately owned automobiles should be claimed at the mileage rates indicated below plus any parking fees or tolls, etc. incurred:

36.0 cents per mile on or after January 1, 2004;
37.5 cents per mile on or after February 3, 2005;
40.5 cents per mile on or after February 4, 2005;
48.5 cents per mile on or after September 1, 2005;
44.5 cents per mile on or after January 1, 2006;
48.5 cents per mile on or after February 1, 2007;
50.5 cents per mile on or after March 19, 2008;
58.5 cents per mile on or after August 1, 2008;
55.0 cents per mile on or after February 1, 2009.

B. Travel Outside the District. When travel involving commercial transportation outside the District is deemed necessary, arrangements may be made to utilize travel rates authorized for Judiciary/governmental travelers through a nationally-contracted travel service. Prior to initiating travel, counsel will be required to complete and submit a Travel Authorization request to the CJA Administrator. Counsel will be notified when travel has been authorized and may then make commercial travel arrangements by following the instructions on the Travel Authorization form.

C. Supporting Documentation. All miscellaneous expenses exceeding \$50.00 must be supported by documentation (receipts, canceled checks, etc.).

3. INVESTIGATIVE, EXPERT AND OTHER SERVICES (CJA Form 21)

A. Compensation. For investigative, expert or other services rendered prior to 12/8/04, prior court approval is required for services which are anticipated to exceed \$300. The case compensation *maximum* is \$1,000 per service provider. For expert services rendered on or after 12/8/04, prior court approval is required for services which are anticipated to exceed \$500. The case compensation *maximum* after 12/8/04 is \$1,600 per service provider.

B. Interpreter Services. Interpreter services when sought independently *outside of court proceedings* are governed by the same procedures and compensation ceilings detailed by Section 3.A. above.

4. WITNESS AND SERVICE OF PROCESS FEES. Witness fees, witness travel and expenses for service of subpoenas upon witnesses are not payable from the CJA appropriation (see Volume VII of *The Guide to Judiciary Policies & Procedures, Appointment of Counsel In Criminal Cases*, specifically Section 2.28(E)). These costs are governed by Rule 17, Fed. R. Cr. P. and 28 U.S.C. § 1825.

5. COURT TRANSCRIPTS. The preferred method for payment for court transcripts is to use CJA Form 24. Authorization for receiving transcripts must first be approved by the judicial officer assigned to the case. In cases where counsel may have elected to pay for transcript costs “out-of-pocket,” these costs should be claimed using Form 24 with

counsel as the claimant. Original court transcripts are filed with the Court and are customarily made a part of the case. Court appointed counsel receive the “court copy” of the transcript produced. In multiple defendant cases where transcripts are requested, the Clerk’s Office is responsible for making additional copies for co-counsel, in an effort to reduce overall cost.

6. PUBLIC DISCLOSURE OF CJA ATTORNEY PAYMENT INFORMATION.

The Criminal Justice Act (CJA) was amended in 1998 to require that compensation paid to court-appointed attorneys be publicly available upon Court approval of payment. (See the Notice of Public Disclosure at our website.)

7. EXEMPTION FROM ELECTRONIC PUBLIC ACCESS FEES. Counsel appointed pursuant to the Criminal Justice Act (CJA) are exempt from electronic public access (EPA) fees for work performed pursuant to a CJA appointment. Counsel should contact the PACER Service Center at (800) 676-6865 to establish an exempt account.

8. FORMS. The following forms and worksheets are available from the District Court’s website: <http://www.vtd.uscourts.gov> at the link CJA Information:

- A. **CJA Form 20.** Appointment of and Authority to Pay Court Appointed Counsel with instructions.
- B. **CJA Form 21.** Authorization and Voucher for Expert and Other Services with instructions.
- C. **CJA Form 24.** Authorization and Voucher for Payment of Transcript with instructions.
- D. **CJA Form 26.** Supplemental Statement for a Compensation Claim in Excess of the Statutory Case Compensation Maximum: District Court.
- E. **CJA Form 26A.** Instructions for completing CJA Form 26.
- F. **CJA Form 27.** Supplemental Statement for a Compensation Claim in Excess of the Statutory Case Compensation Maximum: Circuit Court.
- G. **CJA Form 27A.** Instructions for completing CJA Form 27.
- H. **In-Court Billable Time Sheet.** Required use for appointments made on or after 7/15/2008. This is a fillable, pdf format spreadsheet which may be saved. A hard-copy printout must accompany each CJA 20 claim submitted.
- I. **Out-of-Court Billable Time Sheet.** Required use for appointments made on or after 7/15/2008. This is a fillable, pdf format spreadsheet which may be saved. A hard-copy printout must accompany each CJA 20 claim submitted.

- J. **Other Expenses Claimed Worksheet.** Required for use for appointments made on or after 7/15/2008. This is a fillable, pdf format spreadsheet which may be saved. A hard-copy printout must accompany each CJA 20 claim submitted (if other expenses are claimed)..
9. **INTERIM PAYMENT.** When necessary and appropriate in a specific case, counsel may make application to the presiding district judge for interim payment. A court order is required before interim payment may be made. The CJA Administrator will prepare and submit a proposed order to the district judge for authorization. Should *excess compensation* be anticipated, *written approval must also be obtained from the chief judge of the Second Circuit* before interim payment is made. Interim payments, when approved, are made at two-thirds of the amount claimed. The carryover balance is included in the final payment made for the case.
10. **MOTION FOR WITHDRAWAL.** A motion to be relieved as assigned counsel for a defendant after sentencing has taken place must be filed and made with the *Clerk for the United States Court of Appeals*. Motions for post-sentencing withdrawal will be ruled upon at the Circuit level.

**RICHARD PAUL WASKO
CLERK OF COURT**